

AMENDED IN ASSEMBLY SEPTEMBER 6, 2005

AMENDED IN ASSEMBLY SEPTEMBER 1, 2005

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JUNE 27, 2005

SENATE BILL

No. 586

Introduced by Senator Romero

(Principal coauthors: Assembly Members Bass and Goldberg)

(Coauthor: Senator Chesbro)

(Coauthors: Assembly Members Chan and Pavley)

February 18, 2005

An act to ~~amend Sections 60851 and 60852.5 of~~ *add and repeal Section 60852.3 to* the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 586, as amended, Romero. High school exit examination: pupils with disabilities.

Existing law requires, commencing with the 2003-04 school year, each pupil completing grade 12 to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school. *Existing law requires that the high school exit examination be offered to individuals with exceptional needs, and that individuals with exceptional needs be administered the examination with appropriate accommodations, where necessary.*

Existing law requires the Superintendent of Public Instruction to develop, and the State Board of Education to approve, by January 31, 2004, a request for a proposal for an independent consultant to assess

options and provide recommendations for alternatives to the high school exit examination for a pupil with a disability to be eligible for a high school diploma. Existing law requires the independent consultant to be selected by a selection panel by April 30, 2004. Existing law requires the independent consultant to disseminate a final report, as specified, to certain entities, including the Legislature, by May 1, 2005. Existing law authorizes the Superintendent, upon approval of an expenditure plan by the Department of Finance and the Joint Legislative Budget Committee, to provide funds to implement the recommendations of the independent consultant.

~~This bill would condition the statewide implementation of an alternative or alternatives to the high school exit examination for a pupil with a disability upon the Superintendent making specified findings. The bill would exempt a pupil with a disability from the requirement that he or she successfully pass the high school exit examination as a condition of receiving a standard high school diploma or as a condition of graduation from high school, until the Superintendent has implemented an alternative or alternatives to the high school exit examination on a statewide basis.~~

Existing law authorizes the governing board of a school district to waive the requirement to successfully pass one or both parts of the high school exit examination for a pupil with a disability if specified requirements are met.

This bill would require a school district to grant a high school diploma to a pupil with a disability, if he or she is scheduled to graduate from high school in 2006 or 2007, does not qualify for that high school exit examination waiver, and meets other specified criteria, including having an individualized education program or other specified plan. The bill would require a school district, consistent with that program or plan, to provide pupils who meet the criteria the opportunity to participate in specified instruction. The bill also would require the school district to report to the Superintendent of Public Instruction regarding the number and characteristics of pupils granted diplomas in this manner. By imposing additional duties on school districts, the bill would impose a state-mandated local program.

The bill would provide for the repeal of its provisions on December 31, 2007.

This bill would declare that the Legislature finds that this act implements the settlement agreement in the case of *Chapman v. California Department of Education, et al.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60852.3 is added to the Education Code,
2 to read:

3 60852.3. (a) Notwithstanding any other provision of law, a
4 school district shall grant a high school diploma to a pupil with
5 a disability, if he or she is scheduled to graduate from high
6 school in 2006 or 2007, does not qualify for a waiver pursuant to
7 subdivision (c) of Section 60851, and meets all of the following
8 criteria:

9 (1) The pupil has an individualized education program adopted
10 pursuant to the federal Individuals with Disabilities Education
11 Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to
12 Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C.
13 Sec. 794 (a)).

14 (2) According to the individualized education program or the
15 plan of the pupil, that was adopted, or last revised, on or before
16 July 1, 2005, the pupil is scheduled to receive a high school
17 diploma with an anticipated graduation from high school in 2006
18 or 2007.

19 (3) The school district certifies that the pupil has satisfied or
20 will satisfy all other state and local requirements for the receipt
21 of a high school diploma in 2006 or 2007.

22 (4) The pupil has attempted to pass the high school exit
23 examination at least twice after grade 10, including at least once
24 during grade 12, with the accommodations or modifications, if

1 any, specified in the individualized education program or the
2 plan of the pupil, and the pupil did not receive a score of at least
3 350 on one or both parts of the high school exit examination.

4 (5) The pupil, or the parent or legal guardian of the pupil if
5 the pupil is a minor, has acknowledged in writing that the pupil
6 is entitled to receive free appropriate public education up to and
7 including the academic year during which the pupil reaches 22
8 years of age, or until the pupil receives a high school diploma,
9 whichever event occurs first.

10 (b) Consistent with the requirements of the individualized
11 education program or plan of the pupil, a school district shall
12 provide pupils who meet the criteria in subdivision (a) with the
13 opportunity to participate in remedial or supplemental
14 instruction funded through the annual Budget Act, that is
15 designed to assist pupils to successfully pass the high school exit
16 examination.

17 (c) Each school district shall report to the Superintendent in a
18 manner prescribed by the Superintendent, regarding the number
19 and characteristics of pupils granted diplomas pursuant to this
20 section.

21 (d) This section shall remain in effect only until December 31,
22 2007, and as of that date is repealed, unless a later enacted
23 statute, that is enacted before December 31, 2007, deletes or
24 extends that date.

25 ~~SECTION 1. Section 60851 of the Education Code is~~
26 ~~amended to read:~~

27 ~~60851. (a) Commencing with the 2003-04 school year and~~
28 ~~each school year thereafter, each pupil completing grade 12 shall~~
29 ~~successfully pass the high school exit examination as a condition~~
30 ~~of receiving a diploma of graduation or a condition of graduation~~
31 ~~from high school. Funding for the administration of the exit~~
32 ~~examination shall be provided for in the annual Budget Act. The~~
33 ~~Superintendent shall apportion funds appropriated for this~~
34 ~~purpose to enable school districts to meet the requirements of this~~
35 ~~subdivision and subdivisions (b), (c), (d), and (e). The state board~~
36 ~~shall establish the amount of funding to be apportioned per test~~
37 ~~administered, based on a review of the cost per test.~~

38 ~~(b) Each pupil shall take the high school exit examination in~~
39 ~~grade 10 beginning in the 2001-02 school year and may take the~~

1 ~~examination during each subsequent administration, until each~~
2 ~~section of the examination has been passed.~~

3 ~~(c) At the parent or guardian's request, a school principal shall~~
4 ~~submit a request for a waiver of the requirement to successfully~~
5 ~~pass the high school exit examination to the governing board of~~
6 ~~the school district for a pupil with a disability who has taken the~~
7 ~~high school exit examination with modifications that alter what~~
8 ~~the test measures and has received the equivalent of a passing~~
9 ~~score on one or both subject matter parts of the high school exit~~
10 ~~examination. A governing board of a school district may waive~~
11 ~~the requirement to successfully pass one or both subject matter~~
12 ~~parts of the high school exit examination for a pupil with a~~
13 ~~disability if the principal certifies to the governing board of the~~
14 ~~school district that the pupil has all of the following:~~

15 ~~(1) An individualized education program adopted pursuant to~~
16 ~~the federal Individuals with Disabilities Education Act (20~~
17 ~~U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section~~
18 ~~504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794~~
19 ~~(a)) in place that requires the accommodations or modifications~~
20 ~~to be provided to the pupil when taking the high school exit~~
21 ~~examination.~~

22 ~~(2) Sufficient high school level coursework either~~
23 ~~satisfactorily completed or in progress in a high school level~~
24 ~~curriculum sufficient to have attained the skills and knowledge~~
25 ~~otherwise needed to pass the high school exit examination.~~

26 ~~(3) An individual score report for the pupil showing that the~~
27 ~~pupil has received the equivalent of a passing score on the high~~
28 ~~school exit examination while using a modification that~~
29 ~~fundamentally alters what the high school exit examination~~
30 ~~measures as determined by the state board.~~

31 ~~(d) Subdivision (a) applies to a pupil with a disability only if~~
32 ~~the Superintendent has implemented an alternative or alternatives~~
33 ~~to the high school exit examination pursuant to Section 60852.5.~~
34 ~~Until the Superintendent has implemented an alternative or~~
35 ~~alternatives to the high school exit examination pursuant to~~
36 ~~Section 60852.5, a pupil with a disability who is otherwise~~
37 ~~eligible to graduate from high school shall receive a standard~~
38 ~~high school diploma regardless of whether the pupil has passed~~
39 ~~the high school exit examination, and the passage of that exam~~

1 shall not be a condition of graduation from high school for that
2 pupil.

3 ~~(e) The high school exit examination shall be offered in each~~
4 ~~public school and state special school that provides instruction in~~
5 ~~grades 10, 11, or 12, on the dates designated by the~~
6 ~~Superintendent. An exit examination may not be administered on~~
7 ~~any date other than those designated by the Superintendent as~~
8 ~~examination days or makeup days.~~

9 ~~(f) The results of the high school exit examination shall be~~
10 ~~provided to each pupil taking the examination within eight weeks~~
11 ~~of the examination administration and in time for the pupil to~~
12 ~~take any section of the examination not passed at the next~~
13 ~~administration. A pupil shall take again only those parts of the~~
14 ~~examination he or she has not previously passed and may not~~
15 ~~retake any portion of the exam that he or she has previously~~
16 ~~passed.~~

17 ~~(g) Supplemental instruction shall be provided to any pupil~~
18 ~~who does not demonstrate sufficient progress toward passing the~~
19 ~~high school exit examination. To the extent that school districts~~
20 ~~have aligned their curriculum with the state academic content~~
21 ~~standards adopted by the state board, the curriculum for~~
22 ~~supplemental instruction shall reflect those standards and shall be~~
23 ~~designed to assist the pupils to succeed on the high school exit~~
24 ~~examination. This chapter does not require the provision of~~
25 ~~supplemental services using resources that are not regularly~~
26 ~~available to a school or school district, including summer school~~
27 ~~instruction provided pursuant to Section 37252. In no event shall~~
28 ~~any action taken as a result of this subdivision cause or require~~
29 ~~reimbursement by the Commission on State Mandates. Sufficient~~
30 ~~progress shall be determined on the basis of either of the~~
31 ~~following:~~

32 ~~(1) The results of the assessments administered pursuant to~~
33 ~~Article 4 (commencing with Section 60640) of Chapter 5 of Part~~
34 ~~33 and the minimum levels of proficiency recommended by the~~
35 ~~state board pursuant to Section 60648.~~

36 ~~(2) The grades of the pupil and other indicators of academic~~
37 ~~achievement designated by the school district.~~

38 SEC. 2. ~~Section 60852.5 of the Education Code is amended to~~
39 ~~read:~~

1 ~~60852.5. (a) By January 31, 2004, the Superintendent shall~~
2 ~~develop, and the state board shall approve, a request for a~~
3 ~~proposal for an independent consultant to assess options and~~
4 ~~provide recommendations for alternatives to the high school exit~~
5 ~~examination for pupils with disabilities to be eligible for a high~~
6 ~~school diploma. By April 30, 2004, an independent consultant~~
7 ~~shall be selected by a selection panel consisting of one~~
8 ~~representative appointed by each of the following persons and~~
9 ~~entities:~~

10 ~~(1) The President pro Tempore of the Senate.~~

11 ~~(2) The Speaker of the Assembly.~~

12 ~~(3) The Legislative Analyst's Office.~~

13 ~~(4) The department.~~

14 ~~(5) The Department of Finance.~~

15 ~~(b) The independent consultant should possess expertise on the~~
16 ~~federal Individuals with Disabilities Education Act (20 U.S.C.~~
17 ~~Sec. 1400 et seq.) and applicable state law, as well as assessment~~
18 ~~methodologies concerning pupils with disabilities.~~

19 ~~(c) The independent consultant shall, in consultation with the~~
20 ~~advisory panel established pursuant to Section 60852.6, prepare a~~
21 ~~report that does all of the following:~~

22 ~~(1) Recommends options for graduation requirements and~~
23 ~~assessments for pupils who are individuals with exceptional~~
24 ~~needs, as defined in Section 56026, or who are disabled, as~~
25 ~~defined in Section 504 of the federal Rehabilitation Act of 1973~~
26 ~~(29 U.S.C. Sec. 794).~~

27 ~~(2) Identifies those provisions of state and federal law and~~
28 ~~regulation that are relevant to graduation requirements and~~
29 ~~assessments for pupils who are individuals with exceptional~~
30 ~~needs.~~

31 ~~(3) Recommends the steps that would be taken to bring~~
32 ~~California into full compliance with the state and federal law and~~
33 ~~regulations that are identified pursuant to paragraph (2).~~

34 ~~(d) The independent consultant shall provide the advisory~~
35 ~~panel established pursuant to Section 60852.6 with a preliminary~~
36 ~~report of findings and shall include the concerns and~~
37 ~~recommendations of the advisory panel in a final report. The~~
38 ~~final report shall be disseminated to the members of the advisory~~
39 ~~panel, the Legislature, the Legislative Analyst's Office, the~~

1 Department of Finance, the department, and interested parties no
2 later than May 1, 2005.

3 (e) ~~The Superintendent may, upon approval of an expenditure~~
4 ~~plan by the Department of Finance and the Joint Legislative~~
5 ~~Budget Committee, provide funds for the purposes of~~
6 ~~implementing the recommendations provided pursuant to~~
7 ~~subdivision (e).~~

8 (f) ~~Before the Superintendent implements an alternative or~~
9 ~~alternatives to the high school exit examination, pursuant to the~~
10 ~~recommendations of the independent consultant in the final~~
11 ~~report, the Superintendent shall make all of the following~~
12 ~~findings, supported by evidence:~~

13 (1) ~~The alternative assessment measures content and~~
14 ~~performance standards equivalent to the high school exit~~
15 ~~examination. The department shall develop and implement a~~
16 ~~research agenda on the technical adequacy of the alternative~~
17 ~~assessment or assessments, focused on reliability, validity, and~~
18 ~~equivalence, for purposes of making the determination required~~
19 ~~by this paragraph.~~

20 (2) ~~The alternative assessment is affordable and cost effective.~~

21 (3) ~~The alternative assessment can be implemented equally~~
22 ~~and fairly across the diverse demographics of the state.~~

23 (4) ~~The successful passage of the alternative assessment by a~~
24 ~~pupil with a disability results in the receipt of a standard diploma~~
25 ~~of graduation by that pupil.~~

26 ~~SEC. 3.~~

27 *SEC. 2.* The Legislature finds and declares that this act
28 implements the settlement agreement in the case of Chapman v.
29 California Department of Education, et al. (Super. Ct., Alameda,
30 No. 2002049636).

31 *SEC. 3.* *If the Commission on State Mandates determines that*
32 *this act contains costs mandated by the state, reimbursement to*
33 *local agencies and school districts for those costs shall be made*
34 *pursuant to Part 7 (commencing with Section 17500) of Division*
35 *4 of Title 2 of the Government Code.*